

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/345,824 Confirmation No.: 1712
Applicant(s): Brice Letac et al.
Filed: June 30, 1999
Art Unit: 3738
Examiner: Brian Pellegrino
Title: VALVE PROSTHESIS FOR IMPLANTATION IN BODY CHANNELS

Docket No.: PVI-5791
Customer No.: 30452

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.182 TO ACCEPT AN UNINTENTIONALLY
DELAYED PRIORITY CLAIM IN U.S. PATENT APPLICATION NO. 09/345,824**

Sir:

Request hereby is made under the provisions of 37 C.F.R. § 1.182 to accept an unintentionally delayed amendment to a priority claim under 35 U.S.C. §§ 120, 363, and 365(c). The Commissioner is requested to accord the above-identified application the benefit of the prior-filed applications. Specifically, Applicants are requesting that the priority claim made in the present application be corrected so as to claim priority as a continuation of the following international patent application designating the U.S.:

International Patent Application No. PCT/EP97/07337, filed December 31, 1997, which designates the United States and was published in English by the International Bureau on July 9, 1998 as WO 98/29057, which claims priority to European Patent Application No. 96402929.2, filed December 31, 1996.

The priority claim in the present application was originally and correctly filed in the patent application transmittal letter, which was filed with the application on June 30, 1999. Specifically, the transmittal document included a preliminary amendment requesting that the specification be amended by inserting, at the start of the specification, a sentence stating that the present application is a continuation of the co-pending international application. Furthermore,

the Declaration also identifies the domestic and foreign priority claims. However, Applicants have recently determined that the filing receipt incorrectly identifies the present application as a national stage entry under 35 U.S.C. § 371 of International Patent Application No. PCT/EP97/07337 ("the PCT application"). Therefore, Applicants are hereby requesting that an amendment to the priority claim be allowed so that the priority claim can correctly recite that the present '824 application is a continuation of the PCT application, as was intended by the Applicants when the application was filed.

Concurrently herewith, Applicants have filed an Amendment that amends the specification of the present application to recite the proper reference to the prior-filed and co-pending applications, as required by 35 U.S.C. § 120. Applicants have also filed a Request for a Corrected Filing Receipt and a Supplemental Application Data Sheet to correct the bibliographic priority information for the present application.

Since the present application was filed before November 29, 2000, the Applicants are not required to submit a petition under 37 CFR § 1.78(a) or pay the fee set forth in 37 CFR §1.17(t). Furthermore, Applicants submit that the petition fee set forth in 37 CFR §1.17(f) should not be required in this instance since a preliminary amendment filed with the application on June 30, 1999, contained the proper priority claim. However, if it is determined that Applicants must pay the \$400 fee specified in 37 CFR 1.17(f) or any other fee or amount properly payable in connection with the entry of this Petition, authorization is hereby given to charge such fees or amounts to Deposit Account No. 50-1225 (Docket No. PVI-5791).

Respectfully submitted,



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